

teams, if implemented, would, like other specialized response teams, such as Urban Search and Rescue Teams, be subject to the direction of the Administrator and coordinated with the other activities of FEMA.

Section 2007. Prioritization

Section 2004 of the House bill requires the Secretary to evaluate and annually prioritize pending applications for covered grants based upon the degree to which they would lessen the threat to, vulnerability of, and consequences for persons and critical infrastructure from acts of terrorism.

There is no comparable Senate provision. Instead the Senate bill individually lists the factors that the Administrator shall consider when allocating grants under sections 2003 and 2004.

The Conference substitute adopts the House provision, as modified. The Conference substitute requires that in allocating funds among States and high-risk urban areas the Administrator consider for each State and high-risk urban area, its relative threat, vulnerability, and consequences from acts of terrorism, including consideration of several enumerated factors; and the anticipated effectiveness of the proposed use of the grant by the State or high-risk urban area. While the Conference substitute does not specify the particular weight to be given to any of the listed criteria, it nonetheless requires that each of the characteristics listed in subparagraphs 2007(a)(1)(A) through (J) be considered as part of the assessment of threat, vulnerability, and consequences from acts of terrorism faced by the State or high-risk urban area. The Conference substitute also provides that the Administrator may consider additional factors beyond those listed, as specified in writing, in assessing a State or high-risk urban area's risk.

Section 2008. Use of funds

Section 2005 of the House bill lists authorized uses of covered grants and prohibits the use of grant funds to supplant State or local funds, to construct physical facilities, to acquire land, or for any State or local government cost sharing contribution. This section also requires each covered grant recipient to submit annual reports on homeland security spending and establishes penalties for States that fail to pass funds through to local governments within 45 days of receipt of grant funds.

There is no comparable Senate provision. Instead, the Senate bill authorizes eligible uses of funds for each grant program individually and provides for limitations on the use of grant funds under Section 2007 of the Senate bill.

The Conference substitute adopts the House provision, with modifications. The Conference substitute authorizes grant funds under sections 2003 and 2004 to be used for a number of uses including planning, training, exercises, protecting critical infrastructure, purchasing equipment, and paying personnel costs associated with both straight time and overtime and backfill, in addition to any allowable use in the FY2007 grant guidance for the State Homeland Security Grant Program, the Urban Area Security Initiative (including activities permitted under the full-time counterterrorism staffing pilot), or the Law Enforcement Terrorism Prevention Program. The Conference substitute authorizes grant recipients to use up to 50 percent of their grant funds for overtime and straight personnel costs because prevention and protection activities are personnel intensive. Nonetheless, the needs of communities vary considerably, and the Conferees anticipate that many, if not most, recipients will not need to devote the maximum allowable funding to personnel costs. The Conferees encourage grant recipients to also em-

phasize planning, training, and exercising in their spending plans.

It is important to note that the Conferees are concerned about audits and news reports illustrating some inappropriate uses of grant funds since the programs' inception. The Conferees, therefore, emphasize language in the Conference substitute that prohibits grant recipients from using their funding for social and recreational purposes.

Finally, the Conferees note the provision permitting grant recipients to use their funding for multiple purposes. To be clear, the Conferees do not intend for grant recipients to use their funding solely to prepare for natural disasters. The programs authorized in this title are for counter-terrorism purposes. Nevertheless, the Conferees recognize that many of the planning, training, exercising, and equipment needs of jurisdictions are similar, if not identical, for natural disasters, acts of terrorism, and other man-made disasters, and that, although some preparations for terrorist threats require unique plans and capabilities, many will be part of overall all-hazards preparedness. Therefore, although the use of grant funds under these programs must further a jurisdiction's counter-terrorism activities and programs, the Conferees expect and encourage such jurisdictions to engage in activities, such as evacuation exercises, that will contribute to preparedness for both terrorist and non-terrorist events and not to hesitate to use, for example, equipment purchased for counter-terrorism purposes to respond to a non-terrorist incident.

Subtitle B—Grants Administration

Section 2021. Administration and coordination

There is no comparable House provision.

Section 2007 of the Senate bill requires the Administrator to ensure that the recipients of grants administered by the Department coordinate their activities regionally, including across State boundaries where appropriate, and that State and urban recipients establish a planning committee including relevant stakeholders to assist in the preparation and revision of area homeland security plans. This section also requires that the Department coordinate with other relevant Federal agencies to develop a proposal to coordinate the reporting and other requirements for homeland security assistance programs across the Federal government to avoid duplication and undue burdens on State, local, and tribal governments.

The Conference substitute adopts the Senate provision, as modified.

The Conference substitute includes a provision requiring States and high-risk urban areas receiving grants under the State Homeland Security Grant Program or the Urban Area Security Initiative to establish a planning committee if they have not already done so. The Conferees are aware that many multi-jurisdictional councils of governments, regional planning commissions and organizations, development districts, and consortiums have responsibility for implementing emergency response plans and coordinating cross-jurisdictional response capabilities, and urges the Department to support the continued use of such entities.

Because natural disasters, acts of terrorism and other man-made disasters do not respect political boundaries, and because such events have the potential to overwhelm the capabilities of a single jurisdiction, the Conferees believe that it is important that there be regional coordination in preparing for these events, and the Conference substitute requires that the Administrator ensure that grant recipients appropriately coordinate with neighboring State, local and tribal governments. The Conference does not intend, however, that this provide a license

to the Administrator to impose burdensome requirements on local subgrantees or other small communities, and encourages the Administrator to ensure regional coordination primarily by working with States, high-risk urban areas, and other direct recipients of grants.

Section 2022. Accountability

Section 2005 of the House bill requires recipients of grants under the State Homeland Security Grant Program, Urban Area Security Initiative, and Law Enforcement Terrorism Prevention Program to submit an annual report to the Secretary concerning the use and allocation of those grant funds, and provides incentives for submission of quarterly reports. It also requires that the Secretary submit an annual report to Congress concerning the use of funds by grant recipients and describing progress made in enhancing capabilities as a result of the expenditure of grant funds.

Section 2008 of the Senate bill requires the Administrator to submit annual reports to Congress evaluating the extent to which grants have contributed to the progress of State, local, and tribal governments in achieving target capabilities and providing an explanation of the Department's risk methodology. In addition, Section 2009 of the Senate bill requires the Inspector General of the Department (the Inspector General) to audit all recipients of grants under the State Homeland Security Grant Program, Urban Area Security Initiative, and Emergency Management Performance Grant program. The audits are to be conducted within two years of enactment of the bill or receipt of such a grant, and be made publicly available on the website of the Inspector General. The Inspector General is also required to audit each entity that received a preparedness grant from the Department prior to enactment of this legislation.

The Conference substitute adopts the Senate provision, as modified. Among other things, the Conference substitute requires that at least every two years, the Administrator conduct a programmatic and financial review of each State and high-risk urban area receiving a grant administered by the Department to examine whether grant funds are being used properly and effectively. It requires further that the Inspector General follow up these agency reviews by conducting independent audits of a sample of States and high-risk urban areas each year. The Inspector General is to conduct an audit of all States at least once over the next seven years, report to Congress on any findings, and post the results of the audits on the Internet, taking steps to protect classified and other sensitive information. The Conference substitute authorizes additional funding to help ensure that the Administrator and the Office of the Inspector General are able to carry out these oversight and auditing functions. In addition, the Conference substitute requires the submission of quarterly and annual reports by grant recipients.

While the Conference acknowledges the importance of transparency and therefore requires the public online posting of audits in this section, the Conference substitute exempts any audit information from being released publicly that contains "sensitive" information. The Conference emphasizes that the sensitive information referred to in this provision is information that, while it may not be classified, would be detrimental to national security if made public, such as information designated as Sensitive Security Information. The Conference emphasizes therefore that the term "sensitive information," and the associated exemption from public disclosure, does not apply to information